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ABORIGINALS AND THE GOVERNMENT

This article has been contributed by the Office of Public Affairs, Aboriginal and Torres Strait Islander Commission.

The administration of indigenous affairs stands apart from the administration of other national government responsibilities. It is one of the most difficult areas of government administration because it is concerned with such a wide spectrum of issues. Not only is it politically sensitive, but it is also culturally sensitive.

Since the early part of this century successive governments have sought to establish a mechanism to administer Aboriginal affairs. It has been a long and painful process to reach the present stage where the Government has come to terms with the need to establish a mechanism which recognises indigenous aspirations and enables a process of negotiation between Aboriginal people and the Government. It has taken indigenous Australians more than 80 years to move from a position of paternalism and 'protection' to a position of negotiation and self-determination.

The origins of Commonwealth Government responsibility go back to 1911 and result from Commonwealth acquisition of responsibility for the administration of the Northern Territory from the South Australian Government. One of the first administrative moves of the Commonwealth was to establish a small 'Aboriginal Department' with a staff of 'protectors' to enforce the provisions of an Aboriginal Ordinance. This move was not without its problems.

The shortcomings in the Commonwealth's administration of Aboriginal affairs in the Northern Territory during the 1920s and 1930s are well documented. They resulted in increased pressure being brought to bear on the Commonwealth Government - by Aboriginal people and others - for more appropriate and positive policies to be developed and for there to be a strengthening of legislative controls to stop the mistreatment of Aboriginal people.

An indication of this pressure was reflected in a resolution put to a conference of Aboriginal affairs administrators in Canberra in April 1937 which proposed for consideration that 'the prime necessity for the proper co-ordination of Aboriginal welfare [under] a Federal Department of Native Affairs [and administered by] an administrator experienced in the handling of native races'.

The Commonwealth enhanced its role in policy-making for Aboriginal people with the establishment in 1939 of a Native Affairs Branch with the administrator appointed to the Commonwealth Public Service with the title Commonwealth Adviser on Native Affairs.

At the end of World War II Dr H. C. Coombs proposed that a Commonwealth Bureau of Aboriginal Affairs be set up similar to the United States Bureau of Indian Affairs. The proposal was rejected along 'constitutional restraints' lines.

In 1948, following a meeting of Commonwealth and State officials, it was agreed that Commonwealth responsibility for Aboriginal people was 'not yet practicable'.

The first positive moves towards the Commonwealth taking responsibility for Aboriginal people came in 1951 with the appointment of Paul Hasluck as Minister for Territories. During Hasluck's administration Commonwealth expenditure on programs for Aboriginal people in the Northern Territory increased markedly. These funds were allocated through the newly established Welfare Branch.

It was during this period that the Government was pursuing its policy of assimilation for Aboriginal people. Not only was there a realisation at this time by the Commonwealth that more needed to be done, there was also mounting pressure for change coming from within the Aboriginal community. Aboriginal people and their supporters formed a number of new organisations to take the battle for equality and a 'fair go' to the Government. The community was agitating for change in the administration of Aboriginal affairs.

The most notable was the Federal Council for Aboriginal Advancement which was later named the Federal Council for the Advancement of Aborigines and Torres Strait Islander (FCAATSI). Soon after its formation FCAATSI called for the Constitution to be amended to give the Commonwealth power to legislate for Aboriginals 'as with all other citizens' and the repeal of all discriminatory legislation.

On May 27 1967 a referendum was held which approved two changes to the Constitution, one of which gave the Commonwealth power to legislate in favour of Aboriginals. The changes were approved with a record 90.8 per cent in favour.

The first move for a Commonwealth mechanism to administer Aboriginal Affairs was a proposal for the establishment of an Office of Aboriginal Affairs within the Department of Prime Minister Cabinet. At the same time the Government announced the establishment of a Council for Aboriginal Affairs under the chairmanship of Dr H. C. Coombs One of the Council's major functions was to advise the Government on the formulation of national policies for Aboriginal advancement.

In 1971 a Department of the Environment, Aborigines and the Arts was created. At the same time the Prime Minister, William McMahon, announced that he proposed to establish a special Ministerial Committee which would be advised by the Council and Office and presided over by the Minister responsible for Aboriginal Affairs.

History has shown the 1970s as a decade in which Commonwealth approaches to Aboriginals underwent radical change. This was no more evidenced than the changes that came about in Aboriginal policy-making with the election of the Whitlam Government in 1972. Under the Whitlam Government the theme became 'self-determination for indigenous Australians' and this became the central theme for government policy on Aboriginal affairs. For the first time there was a commitment from government to restore the power of indigenous people to determine their own future and their own way of life. The election of the Whitlam Government brought about the first major structural change in the administration of Aboriginal affairs. The Office of Aboriginal Affairs and the Aboriginal Welfare Branch of the Northern Territory administration were combined to form the Department of Aboriginal Affairs.

It was during this period that the National Aboriginal Consultative Committee (NACC) - the

forerunner to the present Aboriginal and Torres Strait Islander Commission - was established. The NACC was comprised of elected Aboriginals from all over Australia and was charged with the responsibility of advising the Government on issues of concern to Aboriginal people. The NACC was a directly elected committee of advisers. It did not, however, have a legislative basis.

The election of the Fraser Government in December 1975 brought further changes in the administrative structure of indigenous affairs. One of the first moves of the Fraser Government was to change the central policy theme from 'self-determination' to 'self-management'.

Then followed the abolition of the NACC and its reconstruction as the National Aboriginal Conference (NAC) which, together with a Council for Aboriginal Development (CAD), became the major advisory body to government.

The role of the CAD was to provide formal advice to the Government while the NAC was to provide a forum for the expression of Aboriginal opinion. In addition the Aboriginal Development Commission was established which effectively split the former Department of Aboriginal Affairs in two. The NAC was wound up in 1985 and in April that year the Government appointed Miss Lois O'Donoghue CBE, AM, to consult nationally with Aboriginal organisations and communities and then to advise it on a consultative mechanism. The result of this process was extremely important for Aboriginal people in the context of government involvement in Aboriginal affairs.

The consultative process confirmed the view many had known for quite some time - that indigenous people wanted a mechanism whereby grassroots priorities were reflected both in government funding and government policy-making. Proposals for change were put for comment by Aboriginal people in a discussion paper titled **A National Aboriginal and Islander Consultative Organisation**. The final report presented to the Government proposed the staged development of an organisation based upon regional assemblies which in turn would be made up of representatives from communities and service organisations.

In July 1987 Prime Minister Hawke gave notice that the existing structure would be changed and that the department and statutory authorities would be amalgamated into a single authority. In that same month he announced the appointment of Mr Gerry Hand as Minister for Aboriginal Affairs.

In December 1987 Minister Hand presented to Parliament what he described as 'proposals of great historic importance for all Australians'. Thus commenced the struggle, for the establishment of the Aboriginal and Torres Strait Islander Commission (ATSIC). Included in Minister Hand's speech to Parliament was a recognition, finally, that 'it is the right of Aboriginal and Torres Strait Islander people as citizens of this country to be properly involved at all levels of the decision-making process in order that the right decisions are taken about their lives'. It is upon this principle that the Aboriginal and Torres Strait Islander Commission was established.

The establishment of ATSIC was extremely difficult. All indications were that not everyone in the Parliament was of the view that grassroots decision-making and involvement of indigenous Australians in the decision-making processes of government was the best way to go. It would be fair to say that no other government agency has had such a birth, running the gauntlet of Parliamentary inquiries, audit examinations, administrative review and intense political debate over a sustained period during which time the enabling legislation was shaped to accommodate a variety of opinions, ideals and outcomes.

In the time between Minister Hand's announcement and the passing of the legislation establishing ATSIC the Australian public witnessed one of the most intense and protracted debates in the history of the Senate which resulted in no fewer than 90 amendments being made to the original ATSIC Bill. The length and comprehensive nature of the debate confirmed the prevailing view that ATSIC is pioneering in its concept and has required all associated with its establishment and implementation to accommodate significant change in an environment of continued intense

scrutiny.

What indigenous Australians have with the establishment of ATSIC is a unique and challenging model of public administration. It has no precedent.

It has been established under the **Aboriginal and Torres Strait Islander Act 1990**. It consists of an elected arm made up of 60 Regional Councils and a Board of Commissioners, and an administrative arm made up of public servants. The Board of Commissioners is headed by an appointed Chairperson. The administrative arm is headed by a Chief Executive Officer and a Deputy. The elected arm is also the advisory and decision-making part of the organisation.

The Minister for Aboriginal and Torres Strait Islander Affairs is responsible for the Commission in Parliament. The fact that a separate ministerial portfolio has been retained indicates the significance the Government places on Aboriginal and Torres Strait Islander issues. It is also further evidence of the Government's commitment to advance the economic, social and cultural position of Aboriginal and Torres Strait Islanders.

The changed administrative arrangements brought about as a result of the establishment of ATSIC has meant a very changed relationship between the organisation responsible for administering indigenous affairs and the Minister for Aboriginal Affairs. The Minister has considerably less power under the new arrangements. This has meant that the new relationship between the Commission and the Minister has had to be very carefully worked out. There has developed between the Commission and the Minister a partnership arrangement which is based on trust one for the other. The partnership between the elected arm and the administrative arm of the organisation is also harmonious.

The partnership arrangements between all of the players are pioneering and important. What makes ATSIC unique, is the fact that the decision-making bodies that make up the Commission consist of elected representatives. The 60 Regional Councils which are made up of more than 800 Councillors have all been elected by their constituents. Seventeen members of the Board of Commissioners have also been elected by the 800 Regional Councillors. Three Commissioners, including the Chairperson, are appointed by the Minister.

The Government is considering making a number of changes to the structure of ATSIC. It is being proposed that the number of Regional Councils be reduced from 60 to 36 and the number of Commissioners be reduced from 20 to 17. It is also proposed that the Chairperson be elected from among the 17 elected Commissioners rather than appointed by the Minister. The 17 existing zones will remain.

The main objective of ATSIC still remains the efficient and effective delivery of services to its clients- the Aboriginal and Torres Strait population of Australia and its establishment has brought about a change in the way that decisions which affect indigenous people are made and the way in which priorities are set.

There are special provisions in the ATSIC Act for a Torres Strait Islander Commissioner and the establishment of a Torres Strait Islander Advisory Board which is made up of the Commissioner elected by the Torres Strait Regional Council and six Torres Strait Islanders living on the mainland. A separate Office of Torres Strait Islander Affairs has also been established within ATSIC.

Aboriginal and Torres Strait Islander people are, for the first time since European settlement, now able to exert the greatest amount of influence on the programs and policies that affect their lives through the Regional Council structure. Regional Councils provide a forum for grassroots decision-making. They are required, in line with the legislation, to set out, and revise, Regional Plans for the economic, social and cultural status of Aboriginal residents in their area. They are required to assist, advise and cooperate with other bodies in the implementation of Regional

Plans and to prepare budgets on how the Commission should spend money in their regions.

The Regional Council structure represents a significant reform in the administration of Aboriginal affairs because it recognises the fundamental fact that Aboriginal society's needs are not uniform throughout Australia and that needs are best identified and priorities determined in local areas.

In recognition of the need to advance the commercial and economic needs of indigenous people an Aboriginal and Torres Strait Islander Commercial Development Corporation has been established. The Corporation is engaged in commercial activities designed to accumulate and use a substantial capital asset for the advantage of indigenous Australians. It is headed by a Board of nine Directors, three of whom are ATSIC Commissioners.

ATSIC is a complex organisation. It combines administrative, representative and advisory functions into one statutory body. Its continued success will depend upon the relationship between the Commission and the Minister and the three arms of the Commission. There is now a consensus of purpose that must be retained.

The establishment of ATSIC has empowered indigenous people to make decisions about policies which affect them. It is setting a world standard in the administration of indigenous affairs and the level of interest in ATSIC's development is not restricted to Australia. There is considerable international interest in the direction indigenous affairs is taking as a result of the establishment of ATSIC.

This new direction in indigenous affairs and the Government's commitment to support that direction is embodied in a report by the House of Representatives Standing Committee on Aboriginal Affairs titled **Our Country Our Selves**. The report was the result of an extensive inquiry by a Parliamentary Committee - made up of representatives of both of the major political parties - into the effectiveness of support services within Aboriginal and Torres Strait Islander communities. One of the major recommendations of the report called for a process of dialogue between indigenous people and government based on negotiation which will result in a major change in the relationship between the Government and Aboriginal and Torres Strait Islander people. In the past the process of dialogue between indigenous people and government has been based on consultation.

At a more fundamental level is the support by government for a Process of Reconciliation which will involve a coordinated campaign to build better bridges of understanding between Aboriginal and non-Aboriginal Australians. The Government has given support to a framework for advancing reconciliation between the wider community and indigenous people which will not only involve a coordinated public awareness campaign but will also encourage and facilitate discourse on a range of important issues. The process of reconciliation has won cross party support 'within the Parliament which confirms the view that there is wide agreement in Australia among not only political parties but also among church and community groups for the need to raise the level of awareness and the consciousness of non-Aboriginal Australians. The Aboriginal and Torres Strait Islander Commission will have a central role in the reconciliation strategy.

The administration of Aboriginal affairs presents a paradox. On the one hand there are constant reminders of Aboriginal achievement, of how indigenous people are freeing themselves from their welfare dependency and misery through initiative and innovation. Many have achieved great success in a wide range of fields. Aboriginal people would wish this to continue. On the other hand there is the reality of indigenous poverty and despair, of alcoholism and violence that defies description. There is the hopelessness of people who have no employment prospects in a society imbued with the protestant work ethic. Clearly there are those among the indigenous population who have lost direction. Indigenous Australians are still almost entirely dependent on the patronage and goodwill of government and on legislation that can be diluted or changed at any time. Almost 75 per cent of the economy of Aboriginal society consists of government transfer

payments.

In terms of media attention, and therefore public attitudes, there exists what might be described as a polarisation of stereotypes. The debate concentrates on the extremes - it does not take into account the diversity between the two extremes.

This is the dilemma in which indigenous people find themselves. On the one hand they must keep before government the extent of the plight of indigenous people and the need for continued and increasing support of specific programs for Aboriginals and Torres Strait Islanders. They must keep this message before the wider community so that they understand not only the extent of the disadvantage suffered by indigenous people but also the need to continue and enhance specific programs for indigenous people. At the same time they must promote the achievements of indigenous Australians both to government and the wider community while trying to avoid the stereotype tag. Furthermore, indigenous Australians need to convince both the wider community and the indigenous community that they are in a process of change. The change that Aboriginal and Torres Strait Islander people want cannot and will not happen overnight.

ATSIC is the result of an evolutionary process in indigenous affairs. It will not be free of problems because the administration of indigenous affairs is complex and complicated. But there can be no doubt that the mix of elected, advisory and administrative elements that make up the Commission are right. It is important that it be given a chance to deliver the promise it holds for Aboriginal people and the wider community.

The Report of the Royal Commission into Aboriginal Deaths in Custody is one of the most important documents relating to indigenous Australians in contemporary Australia. The Report was the result of four years of inquiry into the direct and underlying causes of death between January 1980 and May 1989 of 99 Aboriginal people while in police custody.

The Report, which contains 339 recommendations, deals with the disadvantage which indigenous Australians face in their dealings with the law and justice system. It also addresses the underlying causes of high rates of imprisonment and incarceration, the lack of employment opportunities, the low level of economic development, inadequate education, welfare dependency, poor health and cultural deprivations.

In March and June 1992 the Commonwealth announced significant initiatives, involving additional expenditure of \$400 million over five years, to address the underlying causes of Aboriginal disadvantage which the Royal Commission identified as the real source of the unacceptably high rate of Aboriginal arrest and imprisonment. These initiatives are in the key areas of economic development, employment and training; education; youth; legal services and law enforcement; alcohol and substance abuse; human rights; and data collection. ATSIC will be the focal point for these programs.

Coupled with this is a Process of Reconciliation which imposes special obligations on the Commonwealth Government to address the social and economic disadvantage of Australia's indigenous population and to assist Aboriginals and Torres Strait Islanders to maintain their distinctive cultures and heritage and to enable them to achieve full recognition and status within Australian society. The process of reconciliation will also help bring about a meaningful discourse with the wider community.

The following tables provide an overview of the Commonwealth's outlays on Aboriginal and Torres Strait Islander Programs in 1991-92.

COMMONWEALTH OUTLAYS, BY FUNCTION, ON ABORIGINAL AND TORRES STRAIT ISLANDER PROGRAMS, 1991-92

Function	\$ million
Labour & employment	324
Housing & community amenities	291
Education	277
Culture & recreation	86
Social security & welfare	61
Health	53
Industry assistance & development	26
Law, order & public safety	22
Transport & communications	3
General & other	10
Assistance to other Governments	7
Total	1,161

Source: Budget Related paper no. 7, 'Social Justice for indigenous Australians, 1992-93'.

COMMONWEALTH OUTLAYS, BY AGENCY, ON ABORIGINAL AND TORRES STRAIT ISLANDER PROGRAMS, 1991-92

Agency/Program	\$ million
Aboriginal & Torres Strait Islander Commission - comprising:	513.0
Community Development Employment Projects (CDEP)	204.5
Community Housing & Infrastructure (CHIP)	149.0
Health	48.2
Social Security & Welfare	8.2

Housing & Community Amenities (excl. CHIP)	25.4
Culture & Recreation	32.1
Industry Assistance & Development	15.2
Labour & Employment (other than CDEP)	2.4
Law, Order & Public Safety	21.8
General & Other	6.3
Department of Employment, Education & Training	390.0
Department of Health, Housing & Community Services	143.0
Other specific Aboriginal & Torres Strait Islander Agencies - comprising:	77.0
Aboriginal Hostels Ltd (programs)	23.6
Aboriginal & Torres Strait Islander Commercial & Development Corporation	10.0
Australian Institute of Aboriginal & Torres Strait Islander Studies	5.8
Aboriginal Benefit Trust Account	37.3
Ranger Agreement	0.2
Other Portfolios - comprising:	38.0
Administrative Services (including Australian Electoral Commission)	1.2
Arts, Sport, the Environment & Territories	10.5
Attorney General's (including Human Rights & Equal Opportunity Commissions)	0.6
Defence	0.8
Foreign Affairs & Trade	0.2
Immigration, Local Government & Ethnic Affairs	7.2
Industrial Relations	0.2

Primary Industries & Energy	2.6
Prime Minister & Cabinet	2.4
Social Security	7.3
Transport & Communications	4.7
Treasury (Australian Bureau of Statistics)	0.1
Total	1,161.0

Source. Budget Related Paper No. 7, 'Social Justice for Indigenous Australians, 1992-93'.

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